

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

SNYDERS HEART VAVLE, LLC,

Plaintiff,

v.

UNITED STATES PATENT AND
TRADEMARK OFFICE,

Defendant.

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CIVIL ACTION No. 4:18CV581

JUDGE AMOS L. MAZZANT, III
MAGISTRATE KIMBERLY JOHNSON

**DEFENDANT’S ORIGINAL ANSWER
AND AFFIRMATIVE DEFENSES**

Defendant, Andrei Iancu, Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office (hereinafter, “Defendant” or “USPTO”) by and through undersigned counsel, respectfully submits the following for its Answers Plaintiff’s Complaint.

The Defendant denies each and every allegation in the complaint except as may be expressly and specifically admitted. Defendant responds to the separately numbered paragraphs and prayer for relief in the complaint as follows:

FIRST DEFENSE

Plaintiff failed to properly serve the United States Patent and Trademark Office, the proper party in this matter.

SECOND DEFENSE

Plaintiff brought this action against an improper party. *See supra* note 1.

THIRD DEFENSE

The Agency responded to Plaintiff's FOIA request and provided responsive documents on September 28, 2018.

SPECIFIC RESPONSES

Defendant responds to the numbered paragraphs of the Complaint as follows:

1. Upon information and belief, Admit.
2. Admit.
3. This paragraph contains a description of the underlying action, to which no reply is required. To the extent a response is deemed required, admit that this is an action under the Freedom of Information Act ("FOIA"), to order the production of Agency records requested on behalf of plaintiff, concerning certain pending inter partes review proceedings.
4. Upon information and belief, Admit.
5. Upon information and belief, Admit.
6. Admit.
7. Admit that by letter dated May 4, 2018, Christopher Pinckney from Antonelli, Harrington & Thompson LLP requested the following information: Documents sufficient to show who was involved in decisions regarding institution of IPR2018-00105, IPR2018-00106, IPR2018-00107, and IPR2018-00109; Documents regarding recusal of Director Andrei Iancu in IPR2018-00105, IPR2018-00106, IPR2018-00107, or IPR2018-00109; Documents regarding involvement of Director Andrei Iancu in

IPR2018-00105, IPR2018-00106, IPR2018-00107, or IPR2018-00109; and Documents regarding who replaced Director Andrei Iancu in decisions regarding institution of IPR2018-00106, IPR2018-00107, or IPR2018-00109.

8. Admit.
9. Admit.
10. Admit.
11. Admit.
12. Admit.
13. Admit.
14. Admit.
15. Deny.
16. Deny.
17. Deny.
18. Deny.
19. Deny.
20. Admit.

Pursuant to Rule 8(b) of the Federal Rules of Civil Procedure, Defendant asserts a general denial as to those allegations contained in the Complaint that are not specifically admitted herein.

The remainder of the Complaint sets forth Plaintiff's jury demand and prayer for relief to which no response is required. To the extent a response is deemed required,

Defendant denies that Plaintiff is entitled to trial by jury, the specific relief for which Plaintiff prays, or to any other relief as to Defendant.

AFFIRMATIVE AND OTHER DEFENSES

1. Defendant is exercising due diligence in responding to Mr. Pinckney's FOIA request.
2. Defendant has run into exceptional circumstances regarding the processing of Mr. Pinkney's FOIA request.
3. Defendant reserves the right to raise any affirmative defense – including, but not limited to, those identified by Federal Rule 8(c) – supported by the record.

WHEREFORE, having fully answered, Defendant respectfully requests that the Complaint be dismissed with prejudice, and that this Court award Defendant such other and further relief as the Court may deem just and proper.

Respectfully submitted,

JOSEPH D. BROWN
UNITED STATES ATTORNEY

/s/ **Andrea L. Parker**
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CERTIFICATE OF SERVICE

I hereby certify that on October 9, 2018, a true and correct copy of the foregoing document was filed electronically with the court and has been sent to counsel of record via the court's electronic filing system.

/s/ *Andrea L. Parker*
ANDREA L. PARKER
Assistant United States Attorney